

57-26-113 Application of proceeds to expenses of protecting real property -- Claims and defenses of tenant.

- (1) Unless otherwise agreed by the assignee, and subject to Subsection (3), an assignee that collects rents following enforcement under Section 57-26-108 or 57-26-109 need not apply them to the payment of expenses of protecting or maintaining the real property subject to the assignment.
- (2) Unless a tenant has made an enforceable agreement not to assert claims or defenses, the right of the assignee to collect rents from the tenant is subject to the terms of the agreement between the assignor and tenant and any claim or defense arising from the assignor's nonperformance of that agreement.
- (3) This chapter does not limit the standing or right of a tenant to request a court to appoint a receiver for the real property subject to the assignment or to seek other relief on the ground that the assignee's nonpayment of expenses of protecting or maintaining the real property has caused or threatened harm to the tenant's interest in the property. Whether the tenant is entitled to the appointment of a receiver or other relief is governed by law of this state other than this chapter.

Enacted by Chapter 139, 2009 General Session